

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MELISSA MCFADDEN,

Plaintiff,

v.

CITY OF COLUMBUS,

Defendant.

Case No. 2:18-cv-544

Chief Judge Edmund A. Sargus, Jr.

Magistrate Judge Jolson

**DEFENDANT'S OBJECTIONS TO
PLAINTIFF'S PROPOSED CASE-
SPECIFIC JURY INSTRUCTIONS**

This Court issued an Order Setting Trial Date and Settlement Conference (“Trial Order”) on November 29, 2021. In Section I (1) of the Trial Order regarding Proposed Jury Instructions, the Court requested that, “For jury instructions concerning federal law, the Court strongly prefers that the parties use the latest edition of Hon. Edward J. Devitt, Hon. Charles B. Blackmar, Michael A. Wolff, and Kevin O’Malley, Federal Jury Practice and Instructions (West)”. “For instructions concerning Ohio law, the Court strongly prefers that the parties use the latest edition of Ohio Jury Instructions (Anderson)” (DOC #56, pg. 6) The Court also welcomed any effort by counsel to make the instructions from these sources more direct, understandable, and concise.

This is an employment discrimination and retaliation case. Plaintiff asserts claims under both Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* (“Title VII”), and Ohio Revised Code § 4112.02. Federal Jury Practice and Instructions (West 6th Ed.) and Ohio Jury Instructions (Anderson) contain case specific jury instructions on both Title VII and § 4112.02 claims. Defendant relied on these sources in its proposed case specific jury instructions (DOC #68). Defendant’s proposed case specific jury instructions are direct, understandable, and concise.

Plaintiff’s proposed case specific jury instructions (DOC # 67) are sourced primarily from the Third and Seventh Circuit Model Jury Instructions. None of Plaintiff’s proposed instructions

are sourced from Federal Jury Practice and Instructions (West 6th Ed.) or Ohio Jury Instructions (Anderson) as requested by the Court. Plaintiff's proposed instructions are indirect, confusing, and verbose.

For these reasons, Defendant requests that the Court reject Plaintiff's proposed case specific jury instructions and adopt Defendant's proposed case specific jury instructions (DOC #68) for use at trial.

Respectfully Submitted,

/s/ Paul M. Bernhart

Westley M. Phillips (0077728)
Susan E. Williams (0073375)
Paul M. Bernhart (0079543)
Assistant City Attorneys
CITY OF COLUMBUS, DEPARTMENT OF LAW
ZACH KLEIN, CITY ATTORNEY
77 North Front Street, Columbus, Ohio 43215
(614) 645-7385 / (614) 645-6949 (fax)
wmphillips@columbus.gov
sewilliams@columbus.gov
pmbernhart@columbus.gov
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2022, I electronically filed the foregoing with the Clerk of the Court by using this Court's CM/ECF system, which will send a notice of this electronic filing to all counsel of record in this matter.

/s/ Paul M. Bernhart

Paul M. Bernhart (0079543)